

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:	ADMINISTRATIVE CONSENT ORDER
<b>Les Ranschau</b> Sioux County	NO. 2012-AQ-09

TO: Les Ranschau  
3567 Dogwood Ave  
Rock Valley, IA 51247

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Les Ranschau for the purpose of resolving violations pertaining to illegal open burning. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this administrative consent order should be directed to:

**Relating to technical requirements:**

Sheila Kenny  
Iowa Department of Natural Resources  
Field Office No. 3  
1900 N. Grand  
Gateway North, Suite E17  
Spencer, IA 51301-2200  
Phone: 712-262-4177

**Relating to legal requirements:**

Anne Preziosi, Attorney for the DNR  
Iowa Department of Natural Resources  
7900 Hickman Road, Suite 1  
Urbandale, Iowa 50322  
Phone: 515/281-6243

**Payment of penalty to:**

Director of the Iowa DNR  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034

**II. JURISDICTION**

This administrative order is issued pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1) which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code

**RECEIVED**

MAR 29 2012

IDNR AIR QUALITY

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: LES RANSCHAU

chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

1. Les Ranschau owns and operates the property located at 2164 350<sup>th</sup> Street in Rock Valley, Sioux County, Iowa. On July 19, 2011, DNR Field Office No. 3 Environmental Specialist Senior Cindy Martens and Environmental specialist Sheila Kenny visited the site and observed a burn pit that contained the remains of several tires. When asked, Mr. Ranschau stated that the tires were used to keep the fire hot enough to burn the trees that were cleared from the site.

2. On August 26, 2011, the DNR issued a Notice of Violation to Mr. Ranschau informing him of the prohibition against the open burning of tires.

**IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.

2. 567 IAC 23.2(1) prohibits any person from allowing, causing, or permitting open burning of combustible materials, except as provided in 23.2(2) (variances) and 23.2(3) (exemptions). The burning of tires is specifically prohibited. The open burning of solid waste by Les Ranschau demonstrates violations of this provision.

**V. ORDER**

THEREFORE, DNR orders and Les Ranschau agrees to the following:

1. Les Ranschau shall pay a penalty of \$1,500.00 within 45 days of the date this order is signed by the Director.

2. Les Ranschau shall immediately discontinue allowing, causing or permitting improper open burning of solid waste at the site described in this order and at any other location in the State of Iowa; and Les Ranschau shall comply in the future with all state and local requirements regarding the prohibition against illegal open burning.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: LES RANSCHAU

3. Les Ranschau shall clean up the burn area described in this order, including all unburned materials and ash, properly dispose of any burned and unburned solid waste material located at the site; and shall provide disposal receipts to DNR Field Office No. 3 by no later than May 1, 2012.

**VI. PENALTY**

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, which authorize the Director to assess administrative penalties, a penalty of \$1,500.00 is assessed by this administrative consent order. The penalty must be paid within 45 days of the date this order is signed by the Director. The administrative penalty is determined as follows:

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B. 146A.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Les Ranschau has achieved an economic benefit by failing to comply with the laws regarding open burning. Les Ranschau avoided having to pay the tipping fees at the landfill. Therefore, a penalty of \$100.00 is assessed for this factor.

Gravity of the Violation – The open burning of tires can release toxins that pollute the air, may pollute groundwater, and pose a risk to human health and the environment. For these reasons, \$1,000 is assessed for gravity.

Culpability – Les Ranschau owns and controls the property on which the burning took place. He has intentionally allowed the open burning of prohibited wastes. Mr. Ranschau has a duty to remain knowledgeable of the DNR's requirements and to be alert to the probability that his conduct is subject to the DNR's rules. For these reasons, \$400 is assessed for culpability.


**VII. WAIVER OF APPEAL RIGHTS**

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: LES RANSCHAU


This administrative consent order is entered into knowingly and with the consent of Les Ranschau. For that reason, Les Ranschau waives his rights to appeal this order or any part thereof.

**VIII. NONCOMPLIANCE**

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order.

  
\_\_\_\_\_  
Roger L. Lande  
Iowa Department of Natural Resources

Dated this 8th day of  
April, 2012.

  
\_\_\_\_\_  
Les Ranschau

Dated this 14 day of  
March, 2012.

DNR Field Office 3; VII.C.2